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Interstate Commerce Commission
Washington, D.C.

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AUG 17 1979 - 3 45 PM

INTERSTATE COMMERCE COMMISSION

9-229A112

AUG 17 1979

\$200.00

Washington, D.C.

Re: Maintenance-of-Way Equipment to be leased to
Consolidated Rail Corporation

Gentlemen:

Enclosed herewith for recordation are the following
documents and instruments in connection with the financing of the
above-referenced maintenance-of-way equipment:

1. Participation Agreement, dated as of August 15, 1979, among MTV Leasing Corporation ("MTV"), Consolidated Rail Corporation ("Conrail") and The Ohio National Life Insurance Company ("Ohio National");
2. Equipment Lease Agreement, dated as of August 15, 1979, between MTV, as lessor, and Conrail, as lessee;
3. Security Agreement, dated as of August 15, 1979, between MTV, as debtor, and Ohio National, as secured party; and
4. Lease Assignment, dated as of August 15, 1979, between MTV, as assignor, and Ohio National, as assignee, with the Consent thereto of Conrail.

The equipment covered by the foregoing agreements is as follows:

Two (2) locomotive cranes - 30 Ton with magnet generator and magnet - Model 5030 DE; Identification Nos. CL-3043 and CL-3044

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[Handwritten signature]

The within Lease and all lease rentals and certain other payments derived therefrom are subject to a security interest in favor of a certain lender under a certain Security Agreement dated as of the date hereof. This Lease has been executed in several counterparts of which this is Counterpart No. 4. To the extent that this Lease constitutes "chattel paper" or other collateral within the meaning of the Uniform Commercial Code in effect in any jurisdiction, only the counterpart stamped or marked "Counterpart Number 1" shall constitute such chattel paper or other collateral.

COUNTERPART NO. 4

EQUIPMENT LEASE AGREEMENT

between

MTV LEASING CORPORATION

and

CONSOLIDATED RAIL CORPORATION

Dated as of August 15, 1979

RECORDATION NO. 10754 - A
Filed 1425

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INTERSTATE COMMERCE COMMISSION

LEASE NO. MTV-052

Filed and recorded with the Interstate Commerce Commission pursuant to 49 U.S.C.
11303 on recordation number

EQUIPMENT LEASE AGREEMENT NO. MTV-052

This EQUIPMENT LEASE AGREEMENT ("Lease") dated as of August 15, 1979, between MTV Leasing Corporation, a Pennsylvania corporation ("Lessor"), and Consolidated Rail Corporation, a Pennsylvania corporation ("Lessee").

I.

LEASE OF EQUIPMENT

1.1 Lease. Subject to the terms and conditions of this Lease, Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, the items of equipment specified in Rental Schedules A and B attached hereto (individually referred to as "Unit" and collectively referred to as "Units" or "Equipment"). Notwithstanding the possession and use of the Units by Lessee, Lessor shall and does hereby retain the full legal title to and property interest in the same, it being expressly understood that this Lease is an agreement of lease only.

1.2 Procurement, Delivery and Acceptance. Lessee has ordered the Units identified on Rental Schedule A attached hereto pursuant to a purchase agreement between Lessee and Eastern Railway Supplies ("Vendor"), dated February 27, 1979 and numbered 9583659, and the Units identified in Rental Schedule B attached hereto pursuant to a purchase agreement between Lessee and J. I. Case Company ("Vendor"), dated March 6, 1979, and numbered 9583665, both of which are herein-after referred to as "Purchase Agreements". Lessee has assigned to Lessor all the right, title and interest of Lessee in and to the Purchase Agreements insofar as they relate to the Units by a Purchase Agreement Assignment of even date herewith.

Upon delivery of each Unit of Equipment by the Vendor to the Lessee on behalf of the Lessor, the Lessee will inspect such Unit and if such Unit appears to meet specifications, the Lessee will accept such Unit on behalf of the Lessor and on its own behalf by delivering to the Vendor and the Lessor a duplicate acceptance supplement or supplements in the form attached hereto as Schedule C. ("Acceptance Supplement(s)"). The date of execution and delivery by Lessee of an Acceptance Supplement as respects any Unit of Equipment is hereinafter called the "Delivery Date". The execution and delivery by the Lessee of an Acceptance Supplement to the Lessor shall conclusively establish as between the Lessor and Lessee that such Unit (i) has been accepted by Lessee as of such Delivery Date and (ii) has become subject to and governed by all the provisions of this Lease.

1.3 Base Term of Lease. The Base Term of Lease for each Unit shall commence and terminate as specified on the appropriate Rental Schedule attached, unless sooner terminated as provided herein. This Lease may not be terminated by Lessor except as expressly provided herein and may not be terminated or cancelled by Lessee for any reason whatsoever. If such Base Term of Lease is extended the phrase "Base Term of Lease", as used in this Lease, shall be deemed to include the extended term.

1.4 Rental Payments.

1.4.1 Interim Rental Payment. Lessee covenants and agrees to pay to Lessor on the Lease Commencement Date specified on the Rental Schedules, an Interim Rental Payment for each Unit in an amount equal to .0319444% of the Acquisition Cost (as set forth in the appropriate Rental Schedule hereto and hereinafter defined) of such Unit to Lessor multiplied by the number of days elapsed from and including the date Lessor pays for each Unit of equipment to but excluding the Lease Commencement Date. The phrase "Acquisition Cost", as

used in this Lease as to a Unit shall be deemed to mean the full purchase price of a Unit to be paid by Lessor in accordance with the Purchase Agreement for the Unit.

1.4.2 Base Quarterly Rent. Lessee covenants and agrees to pay to Lessor, during the Base Term of Lease the quarterly rental payments in arrears as specified in the Rental Schedules attached (hereinafter referred to as "Base Rental Payment" or in the aggregate as "Base Rental Payments").

1.4.3 Late Payment. In the event that any Interim Rental Payment, Base Rental Payment or other payment or obligation hereunder shall not be made promptly when due, Lessee shall pay to Lessor upon written demand by Lessor, as additional rental, interest on such overdue payment, from the due date of such payment to the date of payment thereof, at the rate of twelve percent (12%) per annum, or the maximum legal rate of interest permitted by applicable law, whichever is lower. The Interim Rental Payment due in accordance with Section 1.4.1, the Base Rental Payment due in accordance with Section 1.4.2, and the Late Payment due in accordance with this Section 1.4.3, shall each be hereinafter referred to as a "Rental Payment", and collectively as "Rental Payments".

1.4.4 Place of Payment. All Rental Payments and other payments required to be made by Lessee to Lessor hereunder shall be made by wire transfer in immediately available funds to Lessor or its assignee, or at such place as Lessor or such assignee may designate in writing to Lessee.

II.

REPRESENTATIONS AND WARRANTIES

2.1 Lessor's Warranties; Disclaimers.

2.1.1 Warranties. Lessor hereby represents and warrants to Lessee that (i) Lessor is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania (ii) on the Delivery Date Lessor will have received good and marketable title to the Equipment,

free and clear of all liens, claims and encumbrances whatsoever except the rights of Lessee under this Lease and the Lender, as hereinafter defined, under the Security Agreement (iii) Lessor is duly authorized by all requisite corporate action to lease the Equipment to Lessee in accordance with the terms of this Lease, subject to Section 2.1.1 (ii); and (iv) this Lease has been duly authorized, executed and delivered by Lessor and constitutes the legal, valid and binding obligation of Lessor, enforceable (within legal limits imposed by Federal Bankruptcy Laws or laws relating to or affecting creditor's rights generally) in accordance with its terms.

2.1.2 Disclaimers. The warranties set forth in subsection 2.1.1 hereof are exclusive and in lieu of all other warranties of Lessor whether written, oral or implied; and Lessor shall not, by virtue of having purchased and leased the Equipment to Lessee under this Lease, or having received any bill or bills of sale pursuant to this Lease or the Purchase Agreements, be deemed to have made any representation, warranty or covenant with respect to the title (except as set forth in 2.1.1 (ii) above), merchantability; fitness, condition, quality, durability or suitability of any Unit in any respect or in connection with or for the purposes and uses of Lessee, AND LESSOR HEREBY DISCLAIMS ANY OTHER REPRESENTATION OR WARRANTY OF ANY NATURE, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, (i) LESSOR'S TITLE TO THE EQUIPMENT, (ii) THE EQUIPMENT'S MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, (iii) THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF THE EQUIPMENT, OR (iv) CONFORMITY OF THE EQUIPMENT TO THE PROVISIONS AND SPECIFICATIONS OF ANY PURCHASE ORDERS RELATING THERETO, IT BEING UNDERSTOOD THAT LESSEE ACCEPTS THE EQUIPMENT FOR THE PURPOSES HEREOF "AS IS"; it being agreed, however, that Lessor authorizes Lessee to assert for Lessee's account, during the Base Term of Lease, all of Lessor's rights under any manufacturer's warranty on the Equipment, or any warranty of title, at Lessee's expense, but Lessee shall indemnify and hold harmless Lessor from and

against any and all claims, and all costs, expenses, damages, losses and liabilities incurred or suffered by Lessor in connection therewith, as a result of, or incident to any action by Lessee pursuant to the above authorization.

2.2 Lessee's Warranties. Lessee hereby represents and warrants to Lessor as follows:

2.2.1 Organization, Corporate Power, etc. Lessee (i) is a corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Pennsylvania, (ii) is qualified to do business in every jurisdiction in which such qualification is necessary, or if not so qualified its failure to be so qualified will not materially and adversely affect its ability to perform its obligations hereunder, and (iii) has the corporate power and authority to own its properties and to carry on its business as now being conducted and to execute and perform its obligations under this Lease.

2.2.2 Validity of Lease. The execution, delivery and performance by Lessee of this Lease have been duly authorized by all requisite corporate action and will not violate any provision of law, any order of any court or other agency of government applicable to Lessee, the Certificate or Articles of Incorporation, or By-Laws of Lessee, or any indenture, mortgage, agreement or other instrument to which it is a party, or by which it or any of its property is bound, or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, mortgage, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of its property or assets; and this Lease constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms subject to any applicable bankruptcy, insolvency, reorganization or other similar laws affecting the rights of creditors and lessors generally.

2.2.3 Financial Statements. Lessee has previously delivered to Lessor its annual report for the year ended December 31, 1978

which contains certain audited financial statements and the Railroad Annual Report R-1 for the period ended December 31, 1978 as submitted to the Interstate Commerce Commission. All such financial statements, balance sheets, statements of profit and loss and financial data (i) are complete and correct in all material respects, (ii) accurately present the financial condition of Lessee as of the dates, and the results of its operations for the periods, for which the same have been furnished, and (iii) have been prepared in accordance with generally accepted accounting principles consistently followed throughout the periods covered thereby (except as noted therein); and balance sheets disclose all known liabilities, direct and contingent, as of their respective dates, and (iv) except as generally described in the Memorandum for Private Investors dated February 15, 1979 ("Memorandum"), there has been no material and adverse change in the condition of Lessee, financial or otherwise, since December 31, 1978, other than changes in the ordinary course of business, none of which changes has been materially adverse.

2.2.4 Other Information. To the best of Lessee's knowledge and belief, all other written information, reports, papers and data given to Lessor with respect to Lessee by Lessee, through its officers, agents or employees, are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Lessor a true and accurate knowledge of the subject matter.

2.2.5 Other Agreements. Except as to the Amended and Restated Financing Agreement dated May 10, 1979 between the United States Railway Association and the Lessee, Lessee is not a party to any agreement or instrument materially and adversely affecting its present or proposed business, properties or assets, operation or conditions, financial or otherwise, and Lessee is not materially in default in the performance, observance or fulfillment of any obligations, covenants or conditions set forth in any agreement or instrument to which it is a party.

2.2.6 Indebtedness. Except as to the Amended and Restated Financing Agreement dated May 10, 1979 between the United States Railway Association

and the Lessee, Lessee is not in default in the payment of the principal of or interest on any indebtedness for borrowed money or in default under any instrument or agreement under and subject to which any indebtedness for borrowed money has been issued and no event has occurred and is continuing under the provisions of any such instrument or agreement which with the lapse of time or the giving of notice, or both, would constitute an event of default thereunder.

2.2.7 Taxes. Except as set forth in Appendix I of the Memorandum, Lessee has filed all Federal, State, county and municipal tax returns required to have been filed by it and has paid all taxes which have become due pursuant to such returns or pursuant to any assessment received by it (except taxes which Lessee is contesting in good faith and as to which adequate reserves have been provided), and Lessee does not know of any basis for additional assessment in respect of such taxes.

2.2.8 Litigation. There is not now pending against or affecting Lessee, nor to Lessee's knowledge is there threatened, any action, suit or proceeding at law or in equity or by or before any administrative agency, or governmental body which, if adversely determined, would materially impair or affect its financial condition or operations except (i) as disclosed in the December 31, 1978 financial statement of Lessee certified by Coopers & Lybrand, certified public accountants, (ii) as set forth in the Memorandum, or (iii) otherwise disclosed in writing to Lessor.

2.2.9 Interstate Commerce Commission and Uniform Commercial Code Filings. Prior to the initial Delivery Date, this Lease, and its supporting documentation, including the Lease Assignment, Security Agreement and the Participation Agreement, shall have been filed and recorded in accordance with Section 49 U.S.C. 11303 of the Interstate Commerce Act. Within five (5) days of the Delivery Date, Lessee shall at its cost and expense file Uniform Commercial Code financing statements with the Secretary of State of the Commonwealth of Pennsylvania, indicating that the transaction is a true lease filed for record purposes only.

insolvency, bankruptcy, reorganization or similar proceedings by or against Lessee, or (iv) any other circumstances, happening or event whatsoever, whether or not similar to any of the foregoing. If for any reason whatsoever this Lease shall be terminated in whole or in part by operation of law or otherwise except as specifically provided herein, Lessee nonetheless agrees to pay to Lessor an amount equal to each Rental Payment at the time such payment would have become due and payable in accordance with the terms hereof had this Lease not been terminated in whole or in part. Lessee hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender this Lease except in accordance with the express terms hereof. Each Rental Payment made by Lessee to Lessor shall be final as to Lessor and Lessee. Lessee will not seek to recover all or any part of any Rental Payment from Lessor for any reason whatsoever.

3.2 Use of Equipment. Lessee shall, at its own cost and expense, use, maintain and operate the Equipment (i) in a careful and proper manner, ordinary wear and tear accepted, (ii) solely in the conduct of its business, subject to the provisions of Section 3.9 hereof, (iii) in a manner and for the use contemplated by the manufacturer thereof including without limitation, in such manner and use so as not to impair the applicability of Vendor's or manufacturer's warranties and (iv) in compliance with (A) the provisions of all policies of insurance carried by Lessee pursuant to Section 3.6 hereof, and (B) all laws, rules and regulations of every governmental authority having jurisdiction over the Equipment, including without limitation, the interchange rules of the United States Department of Transportation and the Interstate Commerce Commission and/or the American Association of Railroads; provided, however, Lessee shall have the right to contest the application of any law, rule or regulation affecting the use, maintenance or operation of the Equipment, and no violation of the within covenant shall be declared for so long as such contest is conducted by Lessee with due diligence

and in good faith by appropriate legal or administrative proceedings, and if in the written opinion of Lessee's counsel such contest does not involve (i) any danger of the sale, forfeiture or loss of any Unit or any interest therein, (ii) any materially adverse change in the title, property or rights of Lessor in or to the Units or hereunder, (iii) any assessment or penalty against Lessor, (iv) any interference with the due payment by Lessee of rentals hereunder, or (v) any danger of criminal or other liability for which no indemnification is provided hereunder being imposed against Lessor. Except for alterations or changes required by a governmental authority having jurisdiction over the Equipment (which Lessee agrees to make at its cost and expense), Lessee shall not, without the prior written consent of Lessor, affix or install any part, accessory or device on any Unit if the same will impair the originally intended function or use of such Unit. Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of the Equipment. Lessee shall not assign any Unit to regular service outside the continental United States.

3.3 Maintenance. Lessee shall at all times during the Base Term of Lease, at its own cost and expense, maintain, service and repair the Equipment so as to keep it in as good operating condition, order, repair and appearance as it was when it first became subject to this Lease, ordinary wear and tear excepted; and at all times during the term hereof the Equipment shall be suitable for use in interchange. Lessee shall, at its own cost and expense and within a reasonable period of time replace all parts of any Unit that may become worn out, lost, destroyed or otherwise rendered permanently unfit for use with appropriate replacement parts, free and clear from any mortgage, lien, charge or encumbrance (and title thereto shall vest in Lessor immediately upon installation, attachment or incorporation of the same in, on or into such Unit.)

3.4 Taxes. In addition to the Rental Payments and other amounts payable by Lessee under this Lease, Lessee shall pay promptly all taxes, assessments, license fees and governmental charges, municipal, state, Federal and foreign (hereinafter referred to as "Imposts"):

(a) levied or assessed against Lessee (i) in respect of this Lease or the Purchase Agreements (ii) upon the interest of the Lessee in the Equipment, (iii) upon the use or operation thereof, or (iv) upon the earnings of Lessee arising therefrom; or

(b) levied or assessed against Lessor (i) on account of the purchase, lease, ownership, possession, maintenance, use, delivery, operation, or return of the Equipment, (ii) on account of or measured by the use of operation thereof, or (iii) on account of or measured by the earnings, rentals (including Rental Payments) or gross receipts arising therefrom, excluding, however, any net income taxes payable by Lessor to the United States or any state or political subdivision thereof (except any such tax which is in substitution for, or relieves Lessee from the payment of, any tax or other charge for which Lessee would otherwise be obligated to pay as provided herein), but including any excise, franchise (imposed only as a result of the business, transactions or facts directly related to this Lease and excluding any franchise taxes imposed by the Commonwealth of Pennsylvania or any political subdivision thereof), sales, use or similar tax imposed on Lessor, on account of the use or sale (except a sale pursuant to subsection 4.3.2 hereof) of the Equipment by, to or for the account of Lessee hereunder; provided, however, that Lessee shall not be required to pay such Impost if and so long as it shall in good faith, with due diligence and by appropriate legal or administrative proceedings, contest the validity, applicability or amount thereof, so long as such proceedings or the nonpayment of such Impost does not, in the written opinion of Lessee's counsel acceptable in form and substance to Lessor, involve (A) any danger of the sale, forfeiture or loss of any Unit or any interest therein, (B) any materially adverse change in the title, property or rights, of Lessor in or to the Units or hereunder, (C) any assessment or penalty against Lessor, (D) any interference with the due payment by Lessee of rentals hereunder or (E) any danger of criminal or other liability for which no

indemnification is provided hereunder being imposed against Lessor. If Lessee does elect to contest an Impost Lessor shall make available to Lessee any information relating to this Lease or the Equipment in the Lessor's possession and not otherwise available to Lessee which information is reasonably required by Lessee to pursue such contest. If the claim is made against Lessor for any Impost payable by Lessee hereunder, Lessor shall promptly notify Lessee, and if Lessor pays the same, Lessee will promptly reimburse Lessor therefor. If any Impost payable by Lessee hereunder is, by law, to be assessed or billed to Lessor, Lessee shall, at its expense, do any and all things required to be done by Lessor in connection with the levy, assessment, billing or payment thereof; and Lessor hereby authorizes Lessee to act for and on behalf of Lessor in connection therewith but Lessee shall indemnify and hold harmless Lessor from and against any and all claims and all costs, expenses, damages, losses and liabilities incurred or suffered by Lessor in connection therewith, as a result of, or incident to, any action by Lessee pursuant to the above authorization. Lessee shall cause all billing of Imposts levied against Lessor to be made to it in care of Lessee, and shall, from time to time, on request of Lessor, submit written evidence of the payment of such Imposts.

In the event any reports with respect to any Impost are required to be made, Lessee shall either make such reports in such manner as to show Lessor's ownership of the Units or notify Lessor of any requirement and make such reports in such manner as shall be satisfactory to Lessor.

3.5 Loss of Equipment.

3.5.1 Risk of Loss. Lessee shall bear the risk of any Unit being lost, destroyed or otherwise rendered permanently unfit or unavailable for use (hereinafter called an "Event of Loss") on or after the Delivery Date of such Unit thereof. For the purposes of this Lease, a Unit shall be deemed to have been otherwise rendered permanently unfit or unavailable for use, without limiting the general meaning of such phrase, if any such Unit shall have been (i) confiscated,

condemned or taken by any governmental body, de facto or de jure, by exercise of the power of eminent domain or otherwise, (ii) damaged or worn out to such an extent rendering repair impracticable or uneconomic, or repair, if practicable, shall not be accomplished within 90 days after the occurrence of the damage or (iii) stolen or misappropriated and not recovered by Lessee within sixty (60) days after discovery or notice thereof.

3.5.2 Event of Loss. If an Event of Loss shall occur with respect to any Unit during the Base Term of Lease, Lessee shall promptly notify Lessor thereof and shall pay to Lessor on the date the next succeeding Basic Rental Payment is due, following the Event of Loss, an amount equal to the Stipulated Loss Value of such Unit determined in accordance with Exhibit I(A) and Exhibit I(B) hereto, whichever is applicable (to the extent the same has not theretofore been paid to Lessor as the proceeds of insurance or of any condemnation, confiscation or other taking in respect thereof).

In addition, Lessee shall pay the Base Rental Payment applicable to such Unit on the date on which Lessee pays the Stipulated Loss Value of such Unit, as provided in this subsection 3.5.2, whereupon Lessee's obligations to pay the same with respect to such Unit shall terminate.

3.5.3 Disposition of Insurance and Other Proceeds. The proceeds of insurance or of any confiscation, condemnation or other taking in respect of a Unit as to which an Event of Loss has occurred shall be paid to and retained by Lessor; provided, however, Lessee shall be entitled to reimbursement, from the insurance or condemnation proceeds only, in an amount equal to the amount of the Stipulated Loss Value actually paid to Lessor in accordance with Section 3.5.2 hereof. The proceeds of insurance in respect to damage to a Unit, the repair of which is practicable shall, unless an Event of Default hereunder has occurred and in continuing, be held in trust by Lessor and after such repair has been made and such Unit restored to good operating condition, applied either to the costs of such repair or to the reimbursement of Lessee for the costs of such repair, at the election of Lessee upon written notice to Lessor within ninety (90) days of the occurrence of the damage.

3.6 Insurance.

3.6.1 Coverage. At its own expense, Lessee shall maintain physical damage insurance on the equipment against fire, collision, and such other perils and in such amounts as Lessee maintains on similar equipment (whether owned or leased by Lessee) and as are usually carried by major Class I Railroads (as defined by the rules and regulations of the Interstate Commerce Commission and by the American Association of Railroads) showing Lessor as loss payee and additional insured as the case may be. Further, at its own expense, Lessee shall maintain insurance protecting the interests of both Lessor and Lessee against liability for property damage to third persons and personal injury or death arising out of the maintenance, use, operation or ownership of the Equipment, in such amounts as Lessee maintains on similar equipment (whether owned or leased by Lessee) and as are usually carried by Class I Railroads (as defined by the rules and regulations of the Interstate Commerce Commission and by the American Association of Railroads) showing Lessor as loss payee or additional insured as the case may be.

3.6.2. Policy Provisions. Lessee shall cause each insurance policy issued pursuant to the requirements of subsection 3.6.1 hereof to provide, and the insurer issuing such policy to certify to Lessor, that (i) Lessor, as owner and lessor of the Equipment, is loss payee or an additional insured thereunder depending upon whether the policy in question is a casualty policy or a liability policy, (ii) all provisions of such policy, except the limits of liability, will operate in the same manner as if there were a separate policy covering each insured and (iii) if such policy be cancelled or materially changed for any reason whatsoever such insurer will promptly notify Lessor and such cancellation or change will not be effective for thirty (30) days after notice to Lessor.

3.6.3. Delivery of Policies and Receipts for Premiums. Lessee shall deliver to Lessor copies of each such insurance policy (or a certificate of insurance relating thereto) upon or prior to the execution hereof and copies of each renewal policy (or a certificate or other evidence of insurance relating thereto)

prior to the expiration of the original policy or preceding renewal policy, as the case may be (provided, however, that Lessee shall notify Lessor in writing of the status of such insurance thirty (30) days prior to the expiration thereof in the event that it has not then delivered to Lessor a renewal policy, or a certificate or other evidence of insurance relating thereto), and Lessee shall deliver to Lessor receipts or other evidence that the premiums thereon have been paid if reasonably requested by Lessor.

3.7 Indemnity. Except as otherwise specifically set forth herein, Lessee agrees to indemnify and hold harmless Lessor, its successors and assigns, from and against any and all liabilities, obligations, expenses, claims, (including claims for negligence or strict liability in tort), losses, costs, disbursements (including legal fees and expenses), actions, suits, judgments, penalties, damages, of whatsoever kind and nature (hereinafter referred to individually as "Indemnity" and collectively as "Indemnities") imposed on, incurred by or asserted against Lessor or any successors or assigns thereof, in any way relating to or arising out of this Lease or arising out of any of the letters, other agreements or instruments executed in connection herewith, including, but not limited to:

- (i) the manufacture, purchase, delivery, non-delivery acceptance or rejection, ownership, management, lease, control, possession, use, operation, maintenance, repair, replacement, storage, condition (whether defects are latent or discoverable by Lessor or Lessee), sale, return or other disposition of the Equipment, or any part thereof,
- (ii) the use in or about the construction or operation of the Equipment of any design, article, or material which infringes or is claimed to infringe on any patent, trademark, copyright or other right, or
- (iii) the failure of Lessee to observe and conform to the statutes, ordinances or other regulations or requirements of any governmental authority applicable or relating to the Equipment, except for any Indemnities arising out of the gross negligence or willful misconduct of Lessor.

The covenant of indemnity contained in this Section 3.7 shall continue in full force and effect notwithstanding the full payment of all amounts due hereunder or the termination of this Lease in any manner whatsoever.

The Lessee's obligations under the Indemnities provided for in this Lease shall be those of a primary obligor regardless of whether the Lessor shall also be indemnified with respect to the same matter under the terms of any other document or instrument, and the Lessor may proceed directly against the Lessee without first seeking to enforce any other right of indemnification. Upon the payment in full by the Lessee of any Indemnity provided for under this Lease, the Lessee shall be subrogated to any right of the Lessor in respect of the matter as to which such Indemnity was paid.

3.8 Inspection. Lessee shall permit any person designated by Lessor, at Lessor's expense and at its option, to visit and inspect the Equipment, or any part thereof, and any records pertaining to the use and maintenance thereof, at such reasonable times and places and as often as Lessor may reasonably request.

3.9 Possession; Assignment; Pledge. Lessee shall not, without prior written consent of Lessor:

- (a) sublease, hire out or otherwise transfer or part with the possession, control or custody of the Equipment, or any part thereof;
- (b) assign this Lease or its interests hereunder; or
- (c) create, incur or suffer to exist any mortgage, pledge, lien, security interest, encumbrance or charge on, or adverse claim with respect to, the Equipment, or any part thereof, or its interest therein, by, through or under Lessee.

3.10 Identification. With respect to the Units identified on Rental Schedule A hereto Lessee shall, at its own cost and expense, cause each Unit to be legibly marked in a reasonably prominent location on each side thereof, in letters not less than one inch in height, the words "Owned by MTV Leasing

Corporation and subject to a Security Agreement filed with the Interstate Commerce Commission". Lessee shall not remove or deface, or permit to be removed or defaced, any such marking or the identifying Vendor's serial number, or the Lessee's identification numbers. With respect to the Units identified on Rental Schedule B hereto Lessee shall, at Lessee's expense, affix or attach to the Equipment a sign, stencil, plaque, legend, tag or other form of notice to disclose permanently Lessor's ownership of the Equipment subject to a Security Agreement under the Uniform Commercial Code. With respect to all such Units, in the event of any removal or defacement, of such identification Lessee shall promptly cause such marking, serial number or identification number to be replaced. Lessee shall not allow the name of any person, association or corporation to be placed on any Unit in any manner that might be interpreted as a claim of ownership; provided, however, that Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by Lessee on equipment used by it of the same or a similar type as the Equipment for convenience of identification of its rights to use the Equipment as permitted under this Lease.

3.11 Equipment to be Personal Property. It is expressly understood that all the Equipment shall be and remain personal property and Lessee shall do all acts and enter into all agreements necessary to insure that the Equipment remains personal property.

3.12 Financial and Other Statements.

3.12.1 Financial Statements. Lessee shall furnish to Lessor so long as this Lease shall continue in effect:

(a) as soon as available, and in any event within 120 days after the end of each fiscal year of Lessee, copies of Form R-1 filed with the Interstate Commerce Commission (or any other comparable report substituted therefor which includes certified financial information);

(b) as soon as available, and in any event within 45 days

after the end of each of the first three quarterly periods in each fiscal year of Lessee, copies of the Quarterly Report of Revenue, Expenses & Income-Railroads, and Condensed Balance Sheet-Railroads, of Lessee to the Interstate Commerce Commission for such quarterly period (or any other comparable report substituted therefor);

(c) within sixty (60) days after the end of the first half of each of its fiscal years, its balance sheet as of the end of such half, in sufficient detail to render the same comparable to annual report and certified by the principal financial officer of Lessee as having been prepared in accordance with generally accepted accounting principles consistent with those reflected in its audited financial statements and as to the truth, accuracy and completeness of the information contained therein;

(d) within one hundred twenty (120) days after the end of each of its fiscal years, a complete conformed copy of an executed report of an examination of its financial affairs made by recognized and reputable certified public accountants, such report to include a balance sheet and a statement of profit and loss for such year in the same detail as heretofore furnished to Lessor and an unqualified opinion to the effect that such balance sheet and statement of profit and loss fairly present the financial condition of Lessee

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and the results of its operations in conformance with generally accepted accounting principles applied on a consistent basis, except as may be described in such opinion;

(e) annually, within sixty (60) days after the Lessee's Five Year Business Plan has been submitted to the United States Railway Association a summary thereof generally made available to the public; and

(f) with reasonable promptness, such other financial data as may from time to time be reasonably requested by Lessor.

Any financial statement furnished pursuant to this Section 3.12.1 may be a consolidated statement (i.e., consolidate the financial information with respect to Lessee with that of its consolidated subsidiaries, if any).

IV. DEFAULT AND REMEDIES

4.1 Events of Default. The occurrence of any of the following shall constitute an Event of Default hereunder: .

4.1.1 Default in Payment. Lessee shall fail to pay all or any part of a Rental Payment or other payment hereunder when and as the same shall become due and payable, and shall continue to fail to do so for a period of five (5) business days thereafter.

4.1.2 Breach of Warranty. Any representation or warranty made in this Lease, or the Participation Agreement or in any report, certificate, financial statement or other written statement furnished pursuant to the provisions of this Lease, or the Participation Agreement shall prove to have been false or misleading in any material respect as of the date on which the same was made.

4.1.3 Breach of Covenant. Lessee shall fail to duly observe or perform any covenant other than its covenant to make payments as herein provided (a breach of which is governed by Section 4.1 above), condition

or agreement made by it hereunder or in the Participation Agreement and shall continue to fail to observe or perform the same for a period of thirty (30) days after written notice thereof by Lessor to Lessee.

4.1.4 Bankruptcy, Receivership, Insolvency, etc.

A petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, shall be filed by or against the Lessee and all the obligations of Lessee under this Lease shall not have been duly assumed by a trustee or trustees appointed in such proceedings or otherwise given the same status as obligations assumed by such a trustee or trustees within thirty (30) days after such appointment, if any, or sixty (60) days after such petition shall have been filed, whichever shall be earlier; or any proceedings shall be commenced by or against Lessee under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and all the obligations of Lessee under this Lease shall not have been duly assumed by a trustee or trustees or receiver or receivers appointed for Lessee or for its property in connection with any such proceedings or otherwise given the same status as obligations assumed by such a trustee or trustees or receiver or receivers, within thirty (30) days after such appointment, if any, or sixty (60) days after such proceedings shall have been commenced, whichever shall be earlier.

4.2 Remedies. If an Event of Default hereunder shall occur and be continuing, Lessor may exercise any one or more of the following remedies:

4.2.1 Termination of Agreement. Terminate this Lease and Lessee's rights hereunder.

4.2.2 Specific Performance or Damages. Proceed, by appropriate court action or actions either at law or in equity, to enforce performance by Lessee of the applicable covenants of this Lease or to cause Lessee to pay to Lessor an amount equal to the applicable Stipulated Loss Value and the Basic Rental Payment then due, not as a penalty but for loss of a bargain.

4.2.3 Repossession. Subject always to any mandatory requirements of applicable law then in effect Lessor may:

(a) personally, or by agents or attorneys, retake possession of the Equipment, or any Unit, from Lessee (and any items in or on the Equipment at the time of repossession, wherever such items may be, which items shall be held in storage for Lessor, at Lessee's risk and expense, without liability on the part of Lessor), with or without notice of hearing or other process of law, without liability to return to Lessee any Rental Payment or other payments theretofore made by Lessee and free from all claims made by Lessee, and for that purpose Lessor may enter upon Lessee's premises where any of the Equipment is located, remove the same without liability for suit, action or proceeding by Lessee and, use, without charge in connection with such removal any and all services, supplies, aids and other facilities of Lessee; or

(b) retake possession of the Equipment, or any Unit thereof, without liability to return to Lessee any Rental Payment or other payments theretofore made by Lessee and free from all claims by Lessee, by directing Lessee in writing to assemble the Equipment and deliver the same to Lessor, at Lessor's option, at Philadelphia, Pennsylvania, Chicago, Illinois, the Potomac Yards, Alexandria, Virginia or at such other place on Lessee's lines as Lessor reasonably designates, in which event Lessee shall at its own risk and expense forthwith cause the same to be moved to the place so designated and there delivered to Lessor; it being understood (i) that Lessee's obligations so to deliver the Equipment are of the essence of this Lease and that, accordingly,

upon application to a court of equity having jurisdiction, Lessor shall be entitled to a decree requiring specific performance by Lessee of such obligations; and (ii) that Lessor may, without charge, pending further action by Lessor as hereinafter in this Article IV provided, keep any of the Equipment repossessed by Lessor pursuant to this clause on storage tracks of Lessee as Lessor may designate in or near Philadelphia, Pennsylvania, Chicago, Illinois, Alexandria, Virginia or such other reasonably designated location for a period not exceeding 180 days. The Units shall be delivered in the condition in which they are required to be maintained by Lessee under Section 3.3 hereof, shall be maintained by Lessee, at its own risk and expense, in such condition during the period of storage provided for in this Section 4.2.3, shall be insured by Lessee at its own cost and expense in accordance with Section 3.6 hereof; and at the time of such repossession and during such period of storage shall be kept free and clear of all liens, charges, security interest and encumbrances in accordance with Section 3.9 hereof. During any such storage period, Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of the Units, may inspect the same; provided, however, that Lessee shall not be liable, except in the case of negligence of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser, the right of inspection granted under this sentence.

4.2.4 Other. Exercise any other remedy specifically granted hereunder or now or hereafter existing in equity or at law, by virtue of statute or otherwise.

4.2.5 Unpaid Amounts and Costs. Lessee shall be liable for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys fees and other costs and expenses incurred by reason of an Event of Default or the exercise of any of Lessor's remedies, including any and all costs and expenses suffered or incurred by Lessor in retaking or attempting to retake possession of the Equipment.

4.3 Disposition of Equipment. In the event Lessor repossesses the Equipment, Lessor thereafter may (a) lease the Equipment, or any portion thereof

in such manner, for such time and upon such terms as Lessor may determine, or
(b) sell the Equipment, or any portion thereof, at one or more public or private sales, in such manner at such time or times and upon such terms as Lessor may determine, free and clear of all rights of Lessee under this Lease.

4.3.1 Lease. In the event that Lessor shall enter into a lease or leases of any Units, the present value of the rentals received by Lessor in connection therewith for the Remaining Lease Term (as such term is hereinafter defined) respectively applicable to such Units shall be applied to the payment of (i) any and all expenses and fees (including reasonable attorneys' fees) incurred by Lessor in retaking possession of, and removing, storing and leasing such Units, (ii) the costs and expenses incurred by Lessor in repairing the same, (iii) the present value of the Rental Payments then remaining unpaid under this Lease, and (iv) any and all other sums then owing to Lessor by Lessee hereunder. The remaining balance of such rentals, if any, and the rentals received by Lessor under any lease of any such Unit for the period commencing after the expiration of the Remaining Lease Term applicable to such Unit, shall be retained by Lessor. Lessee shall remain liable to Lessor to the extent that the aggregate amount of the sums referred to in clauses (i) through (iv) above shall exceed the aggregate present value of the rentals to be received by Lessor under such leases for the respective Remaining Lease Term applicable to the Units covered by such leases. The Remaining Lease Term with respect to any Unit shall mean the period ending on the date on which the Basic Term of Lease or Extended Lease Term, whichever is applicable, of such Unit under this Lease would have terminated if an Event of Default hereunder had not occurred. For purposes hereof "present value" shall be determined by discounting rental payments by a six (6%) percent per annum discount rate computed at the same frequency as rental payments would have been made hereunder.

4.3.2 Sale. In the event that Lessor shall sell or otherwise dispose of (other than pursuant to a lease) any Unit, the proceeds shall be applied to the payment of (i) any and all expenses and fees (including reasonable attorneys' fees) incurred by Lessor in retaking possession of, and removing, storing and selling or otherwise disposing of such Unit, (ii) the costs and expenses incurred by Lessor in repairing the same, (iii) the Rental Payments accrued under this Lease but unpaid together with interest thereon at a rate equal to twelve percent (12%) per annum from the date such Rental Payments are due hereunder, to the time of such sale or other disposition, (iv) any and all other sums (other than Rental Payments) then owing to Lessor by Lessee hereunder and (v) the Stipulated Loss Value of the Equipment determined as of the date of such sale or other disposition in accordance with Exhibit I(A) and Exhibit I(B) attached hereto. The remaining balance of such proceeds, if any, shall be retained by Lessor. Lessee shall remain liable to Lessor to the extent that the aggregate amount of the sums referred to in clauses (i) through (v) above shall exceed the aggregate proceeds received by Lessor in connection with the sale or disposition of the Equipment.

V.

RENEWAL OPTION: RETURN OF EQUIPMENT

5.1 Renewal Option. So long as this Lease has not been either earlier terminated or no Event or Default (or event which would constitute an Event of Default but for the lapse of time or the giving of notice or both) shall have occurred and be continuing, the Lessee shall have the option, exercisable on at least 180 days prior written notice to Lessor, to renew the lease term with respect to all, but not less than all (except for items that have been destroyed and for which Lessor has received payment of the Stipulated Loss Value with respect thereto) of the Equipment then subject to each rental schedule attached for three (3) successive additional terms (each of which being herein called "Renewal Term") of

two years each at a "Fair Market Rental" payable in quarterly payments in arrears, in each year of such renewal term. Except for the "Fair Market Rental" as determined below and the term of the lease as set forth herein. All of the terms and conditions set forth in this Lease shall apply during any extension.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would be obtainable in an arm's length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 20 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice, which shall be given within twenty-five (25) days of the giving of notice by Lessee to extend, to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 10 days after such notice requesting determination is given, each party shall appoint an independent appraiser within 15 days after such notice is given, and the two appraisers so appointed shall within 25 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 25 days

after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 70 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provisions for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal shall be borne by the Lessee.

5.2 Purchase Option. So long as this Lease has not been either earlier terminated or no Event of Default (or event which would constitute an Event of Default but for the lapse of time or the giving of notice or both) shall have occurred and be continuing, the Lessee, by written notice delivered to the Lessor not less than six months prior to the end of the Base Term of Lease or extension of the Base Term of Lease may elect to purchase all but not fewer than all of the Units then covered by this Lease, AS IS, WHERE IS, at "Fair Market Value".

Fair Market Value shall be determined on the basis of, and shall be equal to, the sales price which would be obtainable in an arm's length transaction between an informed and willing seller under no compulsion to sell, and, in such determination, costs of removal from the location of current use shall not be a deduction from such price. The mechanics for determining fair market value shall be the same as those set forth in Section 5.1 hereof for the determination of fair market rental value.

5.3 Return of Equipment. As soon as practicable on or after the expiration of this Lease, other than pursuant to Article IV hereof, Lessee will, at its own risk and expense, at the request of Lessor, deliver the Units to Lessor upon such storage tracks of Lessee as Lessor may reasonably designate, or in the absence of such designation, as Lessee may select, and store the Units without charge on such tracks for a period not exceeding 180 days and cause the same to be delivered, and from time to time relocated, at any time with such 180-day period, to any reasonable place on Lessee's tracks directed by Lessor. The Units shall be returned in the condition in which they are required to be maintained by Lessee under Section 3.3 hereof, shall be maintained by Lessee, at its own cost and expense, in such condition during the period of storage provided for in this Section 5.3, shall be insured by Lessee at its own cost and expense during the period of storage in accordance with Section 3.6 hereof; and at the time of such return and during such period of storage shall be kept free and clear of all liens, charges, security interest and encumbrances in accordance with Section 3.9 hereof. The movement and storage of the Units shall be at the expense and risk of Lessee. During any such storage period, Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of the Units, may inspect the same; provided, however, that Lessee shall not be liable, except in

the case of negligence of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser, the right of inspection granted under this sentence. The assembling, delivery, storage, maintenance, insuring and transporting of the Units as in this Section 5.3 provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, Lessor shall be entitled to a decree against Lessee requiring specific performance of the same.

VI.

MISCELLANEOUS

6.1 Recording. Lessee, at its own expense, will cause this Lease and any amendments or supplements hereto, and any assignments hereof, to be filed and recorded in accordance with Section 49 U.S.C. 11303 of the Interstate Commerce Act. Lessee at its own expense will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record (and will re-file, re-register, re-deposit or re-record whenever required) any and all further instruments, including Uniform Commercial Code financing and continuation statements

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as provided for in Section 2.2.9 hereof, required by law or reasonably requested by Lessor for the purpose of proper protection, to its satisfaction, of Lessor's interests in the Units, or for the purpose of carrying out the intention of and its rights under this Lease; and Lessee will promptly furnish to Lessor evidence of all such filing, registering, depositing and recording and an opinion of counsel for Lessee with respect thereto satisfactory to Lessor. This Lease shall be filed and recorded with the Interstate Commerce Commission prior to the intended Delivery Date of any Unit.

6.2 Performance of Lessee's Obligations. If Lessee shall fail to make payment or perform any act required by this Lease, Lessor may, but shall not be obligated to, make such payment or perform such act for the account of and at the expense of Lessee, without notice to or demand upon Lessee and without waiving or releasing any obligation or default. Lessee shall indemnify and hold harmless Lessor from and against all losses and expenses (including, but not limited to, the fees of Lessor's counsel) suffered or incurred by Lessor by reason of any acts performed by Lessor pursuant to this Section 6.2; and Lessee shall pay to Lessor, upon demand, all sums expended by Lessor pursuant to this Section 6.2 or with respect to which it shall be entitled to be indemnified, plus interest thereon, at the rate of twelve percent (12%) per annum, from the date on which such sums are expended by Lessor to the date on which Lessee pays the same to Lessor.

6.3 Further Assurances. Lessee agrees that at any time and from time to time, after the execution and delivery of this Lease, it shall, upon request of Lessor, execute and deliver such further documents and do such further acts and things as Lessor may reasonably request in order fully to effect the purposes of this Lease, including but not limited to, any and all information necessary to enable Lessor to properly complete and file tax returns for any and

all states or political subdivisions thereof.

6.4 Federal Income Tax Indemnification.

(a) The Lease is being entered into by the Lessor on the assumptions that (A) the Lessor will be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (hereinafter called the "Code"), to an owner and lessor of such property, including, without limitation (1) the maximum depreciation deduction allowable with respect to the Equipment authorized under Section 167 of the Code (hereinafter called the "Depreciation Deduction"), (a) utilizing a 11-year depreciable life, which is the lower limit listed in Revenue Procedure 77-10, 1977-12 I.R.B. 4, for property in Asset Guideline Class No. 40.1, in accordance with the Class Life Asset Depreciation Range System described in Section 167(m) of the Code and the regulations promulgated thereunder as in effect on the date hereof (the "ADR Regulations"), (b) employing initially the 200% declining-balance method of depreciation with a change, not requiring the consent of the Commissioner of Internal Revenue, to the sum of the years-digits' method of depreciation when most beneficial to the Lessor, (c) utilizing the half-year convention, (d) including in the basis of the Equipment an amount that is not less than the Original Cost (hereinafter called the "Basis"), and (e) taking into account a salvage value, after the reduction allowed by Section 167(f) of the Code, of zero; (2) an investment credit that is not less than 10% of the Basis of the Equipment (hereinafter called the "Investment Credit"), pursuant to Section 38 and related sections of the Code; (B) the Lessor will be entitled to treat each item of income and deduction as being attributable to sources within the United States (hereinafter called "U.S. Source Items"); and (C) the Lessor will realize no gross income from the Lease of the Equipment to the Lessee during the term of the Lease, except amounts payable to the Lessor under said Lease (unless offset by a corresponding deduction in the same

taxable year (hereinafter called "Items of Non-Inclusion").

The Lessee agrees and represents that neither it nor any corporation controlled by it, in control of it, or under common control with it, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing, and that each such corporation will file such returns, take such action and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof. The Lessee will keep and make available for inspection and copying upon reasonable demand by the Lessor such records as will enable the Lessor to determine whether it is entitled (A) to the full benefit of the Depreciation Deduction, the Investment Credit and the Items of Non-Inclusion, and (B) to treat items of income and deduction as being U.S. Source Items.

(b) The Lessee represents and warrants as follows:

(i) each Item of Equipment will, at the time it is purchased by the Lessor under the terms of this Lease, consist only of new tangible personal property, within the meaning of Section 167 of the Code and shall constitute "new Section 38 property" within the meaning of Section 48(b) of the Code, and at all times during the term of the Lease the Equipment will constitute "Section 38 property" within the meaning of Section 48(a) of the Code;

(ii) the Equipment shall not have been placed in service, within the meaning of Section 1.167(a)-11(e)(1)(i) of the ADR Regulations, by the Lessee or any other person prior to its delivery to the Lessor and the original use of each Unit of Equipment, within the meaning of Section 1.167(c)-1(a)(2) of the regulations, shall not have commenced prior to the delivery of the Equipment to the Lessor.

(iii) all information supplied by the Lessee in writing to the Lessor, or any independent appraiser or engineer with respect to the

description, nature, function, testing and cost of the Equipment, including, but not limited to, facts relating to its intended use, economic life and residual value, was, to the best knowledge of the Lessee, complete and accurate at the time given.

(c) If as the direct or indirect result of (A) a breach by the Lessee or any affiliate, agent or employee of the Lessee of any representation, warranty, covenant or agreement made by the Lessee in clause (i), (ii), or (iii) of subparagraph (b) above, (B) any action (including the use or location of any Unit outside the United States) or a failure to take any action by the Lessee or any affiliate, agent or employee of the Lessee, (C) any incomplete, incorrect or inaccurate information being furnished by the Lessee or any affiliate, agent or employee of the Lessee, including but not limited to any misstatement, omission of information, or defect of any written statement, opinion, report or appraisal furnished by the Lessee or an employee or agent of the Lessee to the Lessor or the Internal Revenue Service with respect to the nature, function, cost, useful life, residual value or actual or intended use of the Equipment, or (D) any fact with respect to the nature, function, cost, useful life, residual value or intended use of the Equipment stated or represented by the Lessee, or any affiliate, agent or employee of the Lessee as a fact and not an opinion or estimate, being determined to be incorrect or untrue by the Lessor or the Internal Revenue Service, the Lessor shall not have, or shall lose the right to claim, or shall suffer a disallowance of, or shall be required to recapture (any such event being hereinafter called a "Loss"), all or any portion of the Investment Credit, or the Depreciation Deduction or any item of income or deduction shall not be treated as a U.S. Source Item, or the Lessor shall be required to take into income any Items of Non-Inclusion (a Loss, the failure of any item of income or deduction to be treated as a U.S. Source Item

or the inclusion in income of an Item of Non-Inclusion is hereinafter called a "Loss of Benefits"), then in any such case the Lessee shall pay to the Lessor on each Base Rental Payment date specified under the Lease on and after written notice to the Lessee by the Lessor that there has been a Loss of Benefit by the Lessor, such additional amount, as in the reasonable opinion of the Lessor, will cause the net after-tax yield and after-tax cash flow of the Lessor under the Lease to equal the net after-tax yield and after-tax cash flow (computed on the same assumptions as utilized by the Lessor in originally evaluating this transaction) that would have been available if there had been no Loss of Benefit and the Lessee shall forthwith pay to the Lessor the amount of any interest or penalty or interest and penalty which may be assessed (or which would have been assessed if there had been no other items involved in the proceedings or determinations in which the Loss of Benefits occurred) by the United States against the Lessor attributable to the Loss of Benefits; provided, however, that such additional amounts and the amount of any interest or penalty or interest and penalty will not be paid to the extent that there shall have been a Loss of Benefits as a direct or indirect result of the occurrence of any one or more of the following events: (i) a disqualifying disposition due to the sale of any Unit or a sale of the Lease thereof by the Lessor, provided an Event of Default shall not have occurred and be continuing more than five (5) days after written notice from the Lessor to the Lessee of an intended disposition, or (ii) a failure of the Lessor to timely or properly claim the Investment Credit or Depreciation Deduction in the Federal tax return of the Lessor, or (iii) a disqualifying change in the nature of the Lessor's business or the liquidation thereof, or (iv) a foreclosure by any person holding through the Lessor of a lien on any Unit, which foreclosure is not the result of an Event of Default under the Lease, or (v) any event which by the terms of the Lease requires payment

by the Lessee of the Stipulated Loss Value and said Value is thereafter actually paid by the Lessee, to the extent that the amount of such payment takes into account the Loss of Benefits which would be indemnifiable by the Lessee pursuant to this Section 6.4, or (vi) the failure of the Lessor to have sufficient liability for tax against which to apply such Depreciation Deduction or Investment Credit.

(d) In the event the Lessee is required to pay to the Lessor additional amounts under this Section 6.4, the Lessee shall also pay to the Lessor on the date of payment of any Stipulated Value set forth in Section 3.5.2 of the Lease such amounts (if any) as may be necessary to provide the Lessor with the same after-tax yield and after-tax cash flow as it would have received if there had been no Loss of Benefits or Additional Expenditure giving rise to an indemnity under this Section 6.4.

(e) In the event and to the extent that the cost of any improvement and/or addition to any Unit or any expenditure by the Lessee in respect of any Unit or the Lease made by the Lessee under and pursuant to the terms of the Lease or otherwise, is required to be included in the gross income of the Lessor for Federal income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction (hereinafter called "Additional Expenditures"), then the Lessee shall pay to the Lessor on the next and each succeeding Base Rental Payment date after the date on which the Lessee is required to furnish written notice thereof to the Lessor pursuant to subparagraph (f) below after said inclusion in the Lessor's gross income is required, such amount or amounts as shall, in the reasonable opinion of the Lessor, after taking into account any present or future tax benefits that the Lessor reasonably anticipates it will derive from its additional investment in the Equipment by reason of said inclusion (including without limitation any current deductions, future depreciation deductions

and investment tax credit), cause the Lessor's net after-tax yield and after-tax cash flow under the Lease (calculated on the same basis as used by the Lessor in originally evaluating this transaction) to equal the net after-tax yield and after-tax cash flow that would have been realized by the Lessor if the cost of such Additional Expenditures had not been includible in the Lessor's gross income.

(f) The Lessee agrees that, within 30 days after the close of any calendar year, or in the event the Lessor gives the Lessee written notice that the Lessor's taxable year closes on a date specified therein other than December 31, within 30 days after said date (said year hereinafter called the "Lessor's Taxable Year") in which a capital expenditure is made with respect to any Unit which would constitute an Additional Expenditure if such capital expenditure were required to be included in the gross income of the Lessor for Federal income tax purposes, the Lessee will give written notice thereof to the Lessor describing such Additional Expenditures in reasonable detail and specifying the cost thereof with respect to each Unit. In addition, the Lessee shall, within 60 days after the close of the Lessor's Taxable Year within which any Unit has been located outside the United States for more than a de minimus period, or within 60 days after receipt by the Lessee of a written request by the Lessor for information regarding the location of any Unit during any periods falling within the term of the Lease, provide the Lessor with a written statement setting forth the number of days, and the countries in which, during said Taxable Year or periods any such Unit was located outside the United States and the countries during said days.

(g) In the event that the Lessor shall suffer a Loss of Benefits the Lessor will take such action in contesting any claim upon which the Loss of Benefits or the inclusion of the cost of such Additional Expenditures is based as the Lessee shall reasonably request from time to time; provided, however,

that (i) the Lessee shall notify the Lessor within 30 days after notice by the Lessor to the Lessee of such claim that the Lessee requests that such claim be contested, (ii) the Lessor, at its sole option, may forego any and all administrative appeals, proceedings, hearings, and conferences with the Internal Revenue Service in respect of contesting such claim and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United States District Court or in the United States Court of Claims, as the Lessor shall elect, or contest such claim in the United States Tax Court, considering, however, in good faith such request as the Lessee shall make concerning the most appropriate forum in which to proceed, (iii) the Lessee shall furnish the Lessor with an opinion of independent tax counsel satisfactory to Lessor, to the effect that a meritorious defense exists to such claim, (iv) the Lessee shall agree to pay and shall indemnify the Lessor in a manner satisfactory to the Lessor against any liability or loss which the Lessor may incur in connection with contesting such claim, including, without limitation (A) reasonable attorneys' and accountants' fees and disbursements, and (B) the amount of interest, penalty and other sums which may ultimately be payable as the result of contesting or seeking the modification of such claim, and (v) the Lessee shall furnish reasonable security for such indemnification as may be requested. In the case of any such claim, the Lessor agrees to notify the Lessee in writing of such claim and agrees not to make payment of the tax claimed for at least 30 days after the giving of such notice and agrees to cooperate with the Lessee in order to contest effectively or obtain the modification of any such claim. Anything herein to the contrary notwithstanding, the Lessor shall have no obligation to contest any proposed deficiency under this subparagraph (g) if the Lessor waives in writing its right to indemnification with respect to the Loss of Benefits or inclusion in income of Additional Expenditures which it otherwise is required to contest.

6.5 Rights, Remedies, Powers. Each and every right, remedy and power granted to Lessor hereunder shall not be exclusive but shall be cumulative and in addition to any other right, remedy or power herein specifically granted or now or hereafter existing in equity, at law, by virtue of statute or otherwise and may be exercised by Lessor from time to time concurrently or independently and as often and in such order as Lessor may deem expedient. Except as otherwise provided in this Lease, Lessee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place or terms of the sale or lease thereof, any other requirement with respect to the enforcement of Lessor's right and any and all right of redemption. Any failure or delay on the part of Lessor in exercising any such right, remedy or power, or abandonment or discontinuance of steps to enforce the same, shall not operate as a waiver thereof or affect Lessor's right thereafter to exercise the same, and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. In the event Lessor shall have proceeded to enforce any such right, remedy or power and such proceeding shall have been determined adversely to Lessor or shall have failed of its essential purpose, then in such event Lessee and Lessor shall be restored to their former positions and the rights, remedies and powers of Lessor shall continue as if no such proceeding has been taken.

6.6 Modification, Waiver, Consent. Any modification, amendment or waiver of any provision of this Lease, or any consent to any departure by Lessee therefrom, shall not be effective in any event unless the same is in writing and signed by Lessor, and then such modification, waiver or consent shall be effective only in the specific instance and for the specific purpose given. Any notice to or demand on Lessee in any event not specifically required of Lessor hereunder shall not entitle Lessee to any other or further notice or demand in the same, similar or other circumstances unless specifically required hereunder.

6.7 Communications. Any notice, request, demand, consent, approval or other communication provided or permitted hereunder shall be in writing and be given by personal delivery or sent by United States first class mail, Certified Mail,

Return Receipt Requested, postage prepaid, addressed as follows:

(a) if to Lessor: MTV Leasing Corporation
226 North 6th Street
P.O. Box 857
Reading, Pennsylvania 19603

Attention: John M. Jacquemin, President

(b) if to Lessee: Consolidated Rail Corporation
Room 1310, Six Penn Center
Philadelphia, Pennsylvania 19104

Attention: Vice President & Treasurer

provided, however, that either party may change its address for purposes of receipt of any such communication by giving ten (10) days' written notice of such changes to the other party in the manner above prescribed.

6.8 Section Headings, etc. Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Lease. All references herein to sections, paragraphs, clauses and other subdivisions refer to the corresponding sections, paragraphs, clauses and other subdivisions of this Lease; and the words "herein", and "hereof", "hereby", "hereunder", and words or similar import refer to this Lease as a whole and not to any particular section, paragraph, clause or other subdivision hereof.

6.9 Governing Law. This Lease shall be deemed to have been made under and shall be governed by, the laws of the Commonwealth of Pennsylvania in all respects, including matters of construction, validity and performance.

6.10 Holiday Payments. If any payment to be made by Lessee shall become due on a Saturday, Sunday or business holiday under the laws of the Commonwealth of Pennsylvania, such payments shall be made on the next succeeding business day.

6.11 Severability. If any provision of this Lease is prohibited by, or is unlawful or unenforceable under, any applicable law of any jurisdiction, such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof; provided, however, that any such prohibition in any jurisdiction shall not invalidate such provision in any other jurisdiction; and provided further, that where the provisions of any such applicable law may be waived, they hereby are waived by Lessee to the full extent permitted by law to the end that this Lease shall be deemed to be a valid and binding agreement in accordance with its terms.

6.12 Lessor' Assignment. Lessor, or any assignee of Lessor, may at any time, without notice to or consent by Lessee, sell, assign, transfer or mortgage or otherwise encumber its interest under this Lease or in the Equipment, in whole or in part, subject to the terms of this Lease and the rights of Lessee hereunder, and upon receipt of written notice of any such assignment, Lessee shall recognize such assignments subject to the rights of Lessee against Lessor hereunder, No assignment or reassignment shall release Lessor from its obligations to Lessee under this Lease. Lessor agrees to deliver to Lessee a copy of each agreement evidencing any such sale, assignment, transfer, mortgage or other encumbrance, or the portion thereof which effects compliance with the provisions of this Section 6.12, as soon as practicable after the execution and delivery thereof. Lessee acknowledges that THE OHIO NATIONAL LIFE INSURANCE COMPANY ("Lender") is simultaneously with the execution and delivery of this Lease receiving from Lessor an assignment of all of Lessor's right, title and interest (but none of its obligations) in and to this Lease.

6.13 Entire Agreement. This Lease together with all Rental Schedules and Exhibits attached hereto contain the entire agreement between Lessor and Lessee with respect to the subject matter hereof and supercedes and cancels any prior understandings and agreements between Lessor and Lessee with respect thereof.

6.14 Binding Effect. This Lease, subject to the provisions of Section 3.9 hereof, shall be binding upon and shall inure to the benefit of the respective successors and assigns of Lessee and Lessor.

6.15 Counterparts. This Lease may be executed in counterparts, and each such counterpart shall, for all purposes, constitute one agreement binding on the parties hereto, notwithstanding that both parties are not signatory in the same counterpart.

6.16 Survival. The representations, warranties, covenants, indemnities and agreements of the Lessee provided for in this Lease, and the Lessee's obligations under any and all thereof, shall survive the delivery of the Equipment and, the expiration or other termination of this Lease.

IN WITNESS WHEREOF, Lessor and Lessee have executed this
EQUIPMENT LEASE AGREEMENT.

ATTEST:
(CORPORATE SEAL)

R. Corlino
Secretary

ATTEST:
(CORPORATE SEAL)

C. P. De Santis
Assistant Secretary

MTV LEASING CORPORATION
(Lessor)

By: J. M. J. J. J.
President

CONSOLIDATED RAIL CORPORATION
(Lessee)

By: J. W. B.

COMMONWEALTH OF PENNSYLVANIA :

SS:

COUNTY OF PHILA.

On this 17th day of August, 1979, before me personally appeared JOHN M. JACQUEMIN, to me personally known, who, being by me duly sworn, says that he is PRESIDENT of MTV LEASING CORPORATION that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(Notarial Seal)

Eileen C. Baker
Notary Public

My Commission expires:: EILEEN C. BAKER
Notary Public Philadelphia, Philadelphia Co.
My Commission Expires October 11, 1982

COMMONWEALTH OF PENNSYLVANIA :

SS:

COUNTY OF PHILA

On this 17th day of August, 1979, before me personally appeared H.W. Brown, to me personally known, who, being by me duly sworn, says that he is Int'l. Tel. Call. of CONSOLIDATED RAIL CORPORATION that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of any foregoing instrument was the free act and deed of said corporation.

(Notarial Seal)

Eileen C. Baker
Notary Public

My Commission expires: EILEEN C. BAKER
Notary Public Philadelphia, Philadelphia Co.
My Commission Expires October 11, 1982

EXHIBIT I (A)
to
Equipment Lease No. MTV-052 dated as of August 15, 1979
between

MTV LEASING CORPORATION (Lessor)
and
CONSOLIDATED RAIL CORPORATION (Lessee)

STIPULATED LOSS VALUES

The Stipulated Loss Value of a Unit of the Equipment covered by Rental Schedule A attached to the Lease Agreement identified above, as of any date, shall be an amount equal to the product of (i) the Acquisition Cost of such Unit (as specified in Rental Schedule A) and (ii) the percentage indicated below opposite the number of the next succeeding Base Rental Payment.

<u>Base Rental</u> <u>Payment Number</u>	<u>Percentage</u>	<u>Base Rental</u> <u>Payment Number</u>	<u>Percentage</u>
1	101.77	29	56.79
2	102.08	30	55.06
3	102.33	31	53.28
4	102.43	32	51.45
5	102.41	33	49.57
6	102.28	34	47.64
7	102.08	35	45.65
8	101.75	36	43.78
9	101.32	37	42.03
10	100.79	38	40.24
11	100.20	39	38.41
12	99.50	40	36.55
13	91.81	41	34.65
14	90.94	42	32.71
15	90.01	43	30.73
16	88.99	44	28.71
17	87.89	45	26.65
18	86.71	46	24.54
19	85.48	47	22.41
20	84.18	48	20.00
21	75.93		
22	74.54		
23	73.12		
24	71.65		
25	70.15		
26	68.60		
27	67.01		
28	65.37		

EXHIBIT I (B)
to
Equipment Lease No. MTV-052 dated as of August 15, 1979
between

MTV LEASING CORPORATION (Lessor)
and
CONSOLIDATED RAIL CORPORATION (Lessee)

STIPULATED LOSS VALUES

The Stipulated Loss Value of a Unit of the Equipment covered by Rental Schedule B attached to the Lease Agreement identified above, as of any date, shall be an amount equal to the product of (i) the Acquisition Cost of such Unit (as specified in Rental Schedule B) and (ii) the percentage indicated below opposite the number of the next succeeding Base Rental Payment.

<u>Base Rental Payment Number</u>	<u>Percentage</u>
1	101.57
2	101.32
3	100.90
4	100.12
5	99.04
6	97.65
7	96.12
8	94.35
9	92.37
10	90.17
11	87.87
12	85.43
13	75.95
14	73.24
15	70.44
16	67.59
17	64.67
18	61.68
19	58.65
20	55.95
21	46.48
22	43.85
23	41.20
24	38.50
25	35.75
26	32.96
27	30.16
28	26.90

RENTAL SCHEDULE NO. A to be attached to Equipment Lease No. MTV-052 dated August 15, 1979, (the "Lease") by and between the undersigned. Lessee hereby (a) authorizes Lessor to order for lease to Lessee the equipment described herein (the "Equipment") and to insert hereon the Lease Commencement Date and the partial first period's rent (if any) for such Equipment upon Lessee's acceptance of same for lease, (b) agrees to lease such Equipment from Lessor effective the Lease Commencement Date thereof and for the lease term specified below, and (c) agrees to pay Lessor the rent, in the amounts and at the times specified below, for each item of Equipment. All of the terms used herein which are defined in the Lease shall have the same meaning as so defined.

<u>DESCRIPTION</u>	<u>MODEL NO.</u>	<u>SERIAL NO.</u>	<u>ACQUISITION COST</u>
2 Locomotive Cranes 30 Ton with Magnet Generator and Magnet - Model 5030-DE		CL3043 CL3044	\$282,630.00 each

Total Acquisition Cost \$565,260.00

This Rental Schedule is for a term of 12 years and the Lease Commencement Date is the first day of the month following the date on which the vendor is paid for the equipment. The Base Rental Payment of \$16,604.51 is payable quarterly in arrears for 48 quarters beginning on the last day of the first quarter of the Base Term of Lease.

Location of Equipment: _____

Name and address of Vendor of Equipment: Eastern Railway Supplies, 28 Main Street, Kingston, New Jersey 08528.

MTV LEASING CORPORATION (LESSOR)

By J. M. Jacquin

Its President
(title)

Date 8/17/79

CONSOLIDATED RAIL CORPORATION (LESSEE)

By J. W. B.

Its President
(title)

Date 8/17/79

RENTAL SCHEDULE NO. B to be attached to Equipment Lease No. MTV-052 dated August 15, 1979, (the "Lease") by and between the undersigned. Lessee hereby (a) authorizes Lessor to order for lease to Lessee the equipment described herein (the "Equipment") and to insert hereon the Lease Commencement Date and the partial first period's rent (if any) for such Equipment upon Lessee's acceptance of same for lease, (b) agrees to lease such Equipment from Lessor effective the Lease Commencement Date thereof and for the lease term specified below, and (c) agrees to pay Lessor the rent, in the amounts and at the times specified below, for each item of Equipment. All of the terms used herein which are defined in the Lease shall have the same meaning as so defined.

<u>DESCRIPTION</u>	<u>MODEL NO.</u>	<u>SERIAL NO.</u>	<u>ACQUISITION COST</u>
(35) Backhoe/Loader J.I. Case Model 580C - CK with 1 yard 80" bucket, 11 L-16 Tires 10 ply Front, 17.5 x 24 Tires 6 ply Rear		EF5582- EF5616 Inclusive	\$22,621.00 each

Total Acquisition Cost \$791,735.00

This Rental Schedule is for a term of 7 years and the Lease Commencement Date is the first day of the month following the date on which the vendor is paid for the equipment. The Base Rental Payment of \$32,727.40 is payable quarterly in arrears for 28 quarters beginning on the last day of the first quarter of the Base Term of Lease.

Location of Equipment: _____

Name and address of Vendor of Equipment: J.I. CASE COMPANY, 700 State Street, Racine, Wisconsin 53404.

MTV LEASING CORPORATION (LESSOR)

By _____

Its President
(title)

Date 8/17/79

CONSOLIDATED RAIL CORPORATION (LESSEE)

By _____

Its _____
(title)

Date 8/17/79

SCHEDULE C

Reference is made to the Equipment Lease Agreement dated as of August 15, 1979 between MTV LEASING CORPORATION, as Lessor, and CONSOLIDATED RAIL CORPORATION, as Lessee. The terms used herein shall have the same meaning as such terms have in such Equipment Lease Agreement.

The Lessee hereby certifies that the following Units have been accepted by Lessee for leasing under the Lease, that such Units have become subject to and governed by the provisions of the Lease, and that Lessee is obligated to pay the rentals and all other sums provided for in the Lease with respect to such Units.

<u>Description of Units</u>	<u>Conrail Identifying Numbers</u>	<u>Manufacturers Serial Numbers</u>	<u>Unit Purchase Price</u>
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The Delivery Date in respect of such Units is _____, 1979.

IN WITNESS WHEREOF, the undersigned has executed this Acceptance Supplement as of the Delivery Date set forth above.

CONSOLIDATED RAIL CORPORATION

By _____

Title _____